

# CALIFORNIA PESTICIDE REGULATORY PROGRAM

## Enforcement and Compliance Options Chart

DEPARTMENT OF PESTICIDE REGULATION

PR-ENF-072 (Rev. 11/02)

ENFORCEMENT ACTIONS - ENFORCEMENT ACTIONS CONTAIN A PENALTY.			
ACTION	AFFECTED PARTY	AGENCY	PENALTY AND AUTHORITY
<b>ADMINISTRATIVE PENALTY</b> Administrative penalties are initiated by CACs under DPR's Agricultural Civil Penalty (ACP) or Structural Civil Penalty (SCP) Programs, depending on violation(s) and/or licensing status. In addition, administrative penalties may be initiated by the Director for specific violations or in certain situations.	Violators of certain state pesticide laws and regulations or Labor Code §1695	CAC or DPR	<u>Agricultural Civil Penalty</u> - CACs can levy penalties up to \$ 1,000 per violation; or in specific circumstances, up to \$5,000 per violation (FAC §12999.5); or the CAC may refuse to issue a permit when a violator does not pay a penalty, or follow a lawful order of the CAC.
	Violators who are structural pest control licensees and businesses	CAC or SPCB	<u>Structural Civil Penalty</u> - CACs can levy penalties up to \$ 1,000 per violation, or suspend right to work up to three working days per violation (FAC §15202; B&P §8617).
	Any violator	DPR	<u>Director</u> - The Director can levy penalties up to \$ 5,000 per violation for specific violations (FAC §12999.4 and FAC §12999.6).
<b>DISCIPLINARY ACTION</b>	Licensees, certificate holders and permittees	CAC	Refuse, revoke, or suspend county registration (section depends on license or certificate). Refuse, revoke, or suspend restricted materials permit (FAC §14008).
	Licensees and certificate holders	DPR	Refuse, revoke, or suspend license and/or certificate (section depends on license or certificate).
<b>COURT ACTION, CIVIL</b>	Any violator of state pesticide laws and regulations	DPR or SPCB	<u>Division 6 and 3CCR Violations</u> \$1,000 - \$10,000 per violation (FAC §11893); <u>Division 7 and 3CCR Violations</u> \$1,000 - \$25,000 per violation (FAC §12998).
		DPR or CAC	May seek to enjoin the violation or threatened violation of orders issued pursuant to Division 7; and performance of specific acts to protect persons, animals, crops or property (FAC §13000.1).  The Director (or SPCB) may initiate a civil court through the Office of the Attorney General. The Director may also consider a CAC's request for DPR to initiate civil court action.
<b>COURT ACTION, CRIMINAL</b>	Any violator of state pesticide laws and regulations	County District Attorney/ City Attorney or Circuit Prosecutor	<u>Division 6 and 3CCR Violations</u> \$500 - \$5,000 per violation and/or 10 days to 6 months imprisonment (FAC §11891); <u>Division 7 and 3CCR Violations</u> \$500 - \$50,000 per violation and/or up to one year imprisonment (FAC §12996).  The Director may request a District/City/Circuit Attorney/Prosecutor to initiate a criminal action. The Director may also consider a CAC's request for DPR to initiate criminal action, or request a CAC to initiate criminal action. Criminal action generally is limited to cases where a violation is egregious or of statewide significance.

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### ABBREVIATIONS AND TERMS

B&P = Business and Professions Code  
 CAC = County Agricultural Commissioner  
 CACASA = California Agricultural Commissioners and Sealers Association  
 CCR = California Code of Regulations (3 CCR = Title 3, California Code of Regulations)  
 DPR = California Department of Pesticide Regulation  
 Director = Director of the California Department of Pesticide Regulation

Division 6 = Division 6 of the FAC (specifically sections 11401 through 12500)  
 Division 7 = Division 7 of the FAC (specifically sections 12501 through 16000)  
 FAC = California Food and Agricultural Code  
 SPCB = Structural Pest Control Board. The SPCB is under the jurisdiction of the California Department of Consumer Affairs.  
 U.S. EPA Region 9 = United States Environmental Protection Agency Region 9. California is in Region 9.  
 § = section; §§ = sections (of a legal code)

<b>COMPLIANCE ACTIONS</b> - COMPLIANCE ACTIONS ARE OFFICIAL NOTICES OR WARNINGS TO PROMOTE CORRECTION. THEY ARE NOT 'PENALTIES' IN AND OF THEMSELVES.			
<b>ACTION</b>	<b>AFFECTED PARTY</b>	<b>AGENCY</b>	<b>ACTIVITY AND AUTHORITY</b>
CEASE and DESIST ORDER  VIOLATION NOTICE  WARNING LETTER  COMPLIANCE INTERVIEW  "NONCOMPLIANCE" NOTED ON INSPECTION FORM	Any violator of state pesticide laws and regulations	DPR or CAC	No monetary penalty. These activities are consistent with general provisions of the FAC. Cease and Desist Orders may be issued pursuant to FAC §§11737, 11896 or 11897 (Division 6) or FAC §§13101 or 13102 (Division 7). In addition, the Director may issue a cease and desist order under FAC § 15330.
PROCESSING NOTIFICATION	Various	DPR and DHS	Director of DPR is required to immediately notify Director of Department of Health Services (DHS) when produce destined for processing is in violation of permissible pesticide residue tolerances. (FAC §12582).

<b>PUBLIC PROTECTION ACTIONS</b> - PUBLIC PROTECTION ACTIONS ARE INITIATED FOR THE IMMEDIATE PROTECTION OF PUBLIC HEALTH OR SAFETY.			
<b>ACTION</b>	<b>AFFECTED PARTY</b>	<b>AGENCY</b>	<b>ACTIVITY AND AUTHORITY</b>
SEIZE/HOLD PRODUCE (Administrative)	Growers, packers, shippers and sellers	DPR	Seize and hold (quarantine) any lot of produce that exceeds or is suspected of exceeding pesticide residue tolerance (FAC §12601).
CROP ABATEMENT ORDER (Court)	Growers, packers, shippers and sellers	DPR (through County District Attorney or City Attorney)	Any lot of produce that exceeds pesticide residue tolerance is a public nuisance and is subject to disposal (FAC §§12642 and 12643).
CROP SEIZURE (Administrative)	Growers, packers, shippers and sellers	DPR	Seize and destroy any plant, crop, commodity or site treated with a pesticide not registered for use on the plant, crop, commodity or site (FAC §12648).
PROHIBIT HARVEST ORDER (Administrative)	Growers	CAC or DPR	Delay harvest until expiration of pre-harvest interval (FAC §12672).
PROHIBIT HARVEST ORDER (Administrative)	Growers	CAC or DPR	Prohibit harvest of any produce that carries pesticide residue in excess of a permissible tolerance (FAC §12673).
PESTICIDE SEIZURE (Administrative)	Person in possession of pesticide	DPR	Seize and quarantine pesticides that are adulterated, misbranded, not registered by the Director, etc. (FAC §12961).

**3 CCR §6140. Inspection Authority.**

(a) The director or commissioner may, during business hours, or if necessary to ensure immediate compliance, at any other reasonable time enter and inspect, and/or sample any of the following or related items in order to determine compliance with the provisions of this chapter and Divisions 6 and 7 of the Food and Agricultural Code, which pertain to pesticides and pest control operations.

- (1) Fields, areas, structures, and greenhouses where pesticides are handled, stored or applied;
- (2) Growing crops and harvested commodities;
- (3) Equipment (including protective clothing and equipment) used to store, transport or handle pesticides;
- (4) Change areas and other facilities used by employees; and
- (5) Pesticides and tank mixtures thereof.

(b) Each person responsible, pursuant to the provisions of this chapter and Division 6 and 7 of the Food and Agricultural Code which pertain to pesticides and pest control operations, for preparing and maintaining records shall make those records available to the Director or commissioner during business hours upon demand of the Director or commissioner. The required records include:

- (1) records concerning work hours, training and medical monitoring of employees;
- (2) pest control recommendations and pesticide use and operations records; and
- (3) pesticide transaction, sales and delivery records.

*Authority for this regulation: Sections 11456 and 12981, Food and Agricultural Code.*